

Serial No. 08/371,219

of the cap and the peripheral portion of said ring abutting said supporting surface of said housing.--

REMARKS

Applicants propose to add a new independent claim 7, similar in essential respects to claim 6, but broader in respects not relevant to the unobviousness of claim 6 over the prior art. Consideration and entry of the amendment is requested.

In reviewing allowed independent claim 6, certain terminology was noted which is clearly not necessary to render the claim patentably unobvious over the cited prior art. Such language has been deleted from claim 7, which is similar in other respects to allowed claim 6.

Applicants are mindful that 37 C.F.R. 1.312 is not a proper vehicle for continued prosecution of an application after allowance. However, the rule does provide an opportunity for amending the claims where proper protection of the invention is needed, and where there is no substantial amount of additional work required on the part of the Patent and Trademark Office. That is believed to be the case here.

In the initial Office Action of June 2, 1995, claims 1, 2 and 4 were rejected under § 102 (b) as being anticipated by Spies, and claim 5 was rejected under § 103 as unpatentable over Spies in view of McGill '364. Claim 3 was indicated allowable if rewritten in independent form, and claim 3 was rewritten as independent claim 6. Claim 7 is believed patentable for essentially the same reasons.

With regard to the disclosure of Spies, there is disclosed therein a main body or receptacle 12, a cap 64 threaded to the main body, and a collapsible cartridge 14 positioned within the body and including a top 50 formed with a central opening 52 through which the substance is discharged from the cartridge. The neck 62 of the top is externally threaded for threaded engagement by the base portion 70 of the cap. In assembling the

dispensing device, the collapsible cartridge 14 is first attached to the cap 64 in sealed relation therewith, and the cap is thereafter threaded to the adjacent threaded end of the housing. This arrangement is clearly different than that of the present invention defined in either claim 6 or claim 7. The acknowledgement of patentability of claim 6 is believed equally applicable with regard to proposed claim 7.

McGill '364 was cited by the examiner in the rejection of claim 5 for the sole showing of providing a conical discharge opening integral with a collapsible discharge tube. Although it is questionable whether McGill '364 is relevant even for that limited purpose, it is clearly evident that McGill '364 does not in any way provide any teaching of the fundamental structural deficiencies of Spies when compared with the present claimed invention. Thus, the prior art cited in the first Office Action and applied against claims 1, 2, 4 and 5 is not any more relevant with respect to claim 7 than it was allowed claim 6.

The amendment is needed to provide applicants with somewhat broader protection than afforded by allowed claim 6. Since claim 7 is believed to distinguish the prior art of record for essentially the same reasons as claim 6, claim 7 is believed to be clearly allowable. Moreover, the entry of the amendment would require no additional search or examination. A claim similar in scope to claim 7 was not presented earlier since applicants only recently became aware of certain language in claim 6 which has no bearing on the allowability of the claim. Such language has been eliminated from claim 7 without, however, detracting in any respect from the allowability of the claim.

The foregoing comments are believed fully in compliance with the reasons set forth in Section 714.16, MPEP, with regard to amendments under 37 C.F.R. 1.312 which affect the scope or number of the claims.

Since claim 7 is believed allowable for the reasons indicated, and the provisions of 37 C.F.R. 1.312 fully complied with, it is requested that the amendment be approved and entered

Serial No. 08/371,219

by the examiner. If any minor matters remain, the examiner is requested to contact the undersigned attorney of record at the telephone number appearing below so that entry of the amendment can be expedited.

Respectfully submitted,

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Date

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